

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEVEN L. SMITH,

Plaintiff,

v.

ORDER TO SHOW CAUSE

MICHELLE LIODICE, et al.,

17-cv-07028 (PMH)

Defendants.

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PHILIP M. HALPERN, United States District Judge:

On September 14, 2017, Plaintiff, proceeding *pro se* and *in forma pauperis*, commenced this action. (Doc. 2). On March 2, 2020, Judge Román granted Defendants’ motion to dismiss and dismissed Plaintiff’s claims without prejudice. (Doc. 38). Plaintiff was granted leave to file an Amended Complaint by April 3, 2020 and was notified that “[b]ecause Plaintiffs Amended Complaint will completely replace, not supplement, the original complaint, any facts or claims that Plaintiff wishes to remain must be included in the Amended Complaint.” (*Id.* at 17). The Court attached an Amended Civil Rights Complaint Form to its Order. Plaintiff was further informed that “[f]ailure to file an Amended Complaint within the time allowed, and without good cause to excuse such failure, will result in dismissal of Plaintiffs Complaint with prejudice.” (*Id.*). On April 3, 2020, this case was assigned to me.

Plaintiff requested, and was granted on March 30, 2020, an extension of time to file his Amended Complaint until May 6, 2020. (Doc. 42). On April 13, 2020 Plaintiff filed an Amended Complaint. (Doc. 44). On April 23, 2020, Plaintiff filed a supplement to his Amended Complaint. (Doc. 45). On May 5, 2020, the Court issued an Order striking Plaintiff’s Amended Complaint and supplement to Plaintiff’s Amended Complaint because the Amended Complaint and supplement did not comply with the Court’s March 2, 2020 Order. (Doc. 49). Specifically, the Court found

that “Plaintiff’s Amended Complaint and supplement do not allege or assert facts and claims, but instead include Plaintiff’s purported arguments.” (*Id.* at 1). The Court *sua sponte* granted Plaintiff a thirty day extension of time to file a Second Amended Complaint. (*Id.*). To date, Plaintiff has not filed a Second Amended Complaint.


Under Federal Rule of Civil Procedure 41(b), “a district judge may, *sua sponte*, and without notice to the parties, dismiss a complaint for want of prosecution....” *Taub v. Hale*, 355 F.2d 201, 202 (2d Cir. 1966); *West v. City of New York*, 130 F.R.D. 522, 524 (S.D.N.Y. 1990); *Lewis v. Hellerstein*, No. 14-CV-07886, 2015 WL 4620120, at \*1-2 (S.D.N.Y. July 29, 2015); *Haynie v. Dep’t of Corr.*, No. 15-CV-4000, 2015 WL 9581783, at \*1-2 (S.D.N.Y. Dec. 30, 2015). Dismissal of an action may be appropriate to “avoid calendar congestion and ensure an orderly and expeditious disposition of cases.” *Cortez v. Suffolk Cty. Corr. Facility*, No. 15-CV-1957, 2016 WL 6302088, at \*2 (E.D.N.Y. Oct. 25, 2016).

Accordingly, it is hereby ORDERED that Plaintiff show cause in writing on or before September 8, 2020, why this action should not be dismissed with prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b). Failure to comply with this Court’s Order will result in dismissal of this case for want of prosecution.

The Clerk of Court is respectfully directed to mail a copy of this Order to Plaintiff at the address listed on ECF.

SO ORDERED.

Dated: New York, New York  
August 5 2020

  
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Philip M. Halpern  
United States District Judge